

AUTO COLLISION REPAIR LICENSING ADVISORY BOARD

Meeting Minutes of September 8, 2010

Members present: Dave Reynolds, Chairman

- of Collision Repairers

Tom Broderick, DBR, Chief Auto Body and Salvage

Scott Wendel, Insurance Company

Gerry Galeshaw, the people

Dennis Gamba, Cranston Collision Center

Dave Doucet, RISP

Members absent: Louis D'Quattro, Jr. – Deputy Director,

Division of Regulatory Standards, Compliance and

Enforcement

Dan Coleman, Glass Industry

Chris Hurd, New Car Dealer

Others: Scott Fowler, Metlife Auto & Home

Bill Burke, Progressive

Randy Bottella, ABARI

Jina Petrarca-Karampetsos, Prov Auto Body

Larry Alan, Nationwide Inc.

Kim Precious, Implementation Aide

Evelyn Ferrara, Licensing Aide

Dave Reynolds: Called meeting to order at 10:31 A.M. No minutes from previous meeting as of now.

Regulation 4: We have a late note from legal. LDQ asked for changes on Regulation 4 – Language on page 9 repair bill, and page 10 regarding insurer payments? Why would they want to take that out?

Larry Alan: Nothing in the Commercial Licensing Regulation can direct insurers. They may want to pull this because it is an instruction to an insurance licensee in a commercial licensing regulation I can't speak for DBR, but that is a finding of fact and I don't think the Department would want to have it's hands feathered on what it should be construed as.

Randy Bottella: Are you saying it is being added in or taken out?

LA: It was being put in from sub-committee and LDQ is recommending we take it out. If you leave that in, they might take it out anyway. This is an advisory board in an advisory capacity.

JPK: My issue is appraisal many not match repair bill. Historically viewed as a presumption of fraud.

LA: Isn't it a rebuttable presumption?

JPK: I don't think we should put body shop in that position. For the reason: DBR v Ray Stewards. DBR's position followed case law. It's

the Customer's decision. The insurer should pay the loss.

That is why we have the appraisal law. Because if the insurance company is going to pay for loss they should have someone qualified to determine what loss is, and then it is up to customer with the shop to decide what, how and when. Again that language was put in to have some comfort level on the part of the shops, it would not be a presumption as it had been in the past.

LA: You are presuming the Department is going to make the presumption. The Stewart decision may preclude the need for this.

JPK: Historically. I believe it is the Department's position that they don't use cases as precedent. They don't use that as a rule. In case law, you follow the previous decisions. That is not the Department's position. I don't know how that language would harm someone.

Dave Doucet: Did the Department give a reason?

DR: No

DD: Obviously, the board can't determine why they want it out. The only alternative then is we should send it up like it is and let them explain.

DG: I think, in our committee, we all agreed the purpose to putting that in there was so DBR wouldn't get so many complaints because

the insurance estimate and the repair bill are different. The repair bill is something between the customer and the shop and what the customer wants to fix. It's not what you were presumed to fix, it is what you actually did fix.

LA: Jina added this because the earlier version of the form sort to make that comparison. That was eliminated at last meeting. The nature of the form has changed.

JPK: I suggest we come to a compromise. If the word presumed is too strong. This does not tie their hands legally at all. It just says a presumption can't be made. This is not a binding statement of anything. It just means you should look further into it.

LA: Lets talk about consistency; do you want to have something in a regulation that is binding or potentially irrelevant?

DG: I suggest we send up as is and maybe if possible with an explanation. They can make argument.

LA: You could do that in a cover letter.

DR: Any other questions? Is it agreeable to the Board members that are present right now that we leave it in there? Question on page 10, language regarding insurer payment they want it removed.

LA: This appears to be a direction to insurance licensees and not for commercial licensing.

JPK: I think it is extremely important that the public knows that they should be looking for a license on the wall. This is not a directive to the insurer. This is an auto body regulation. Public must be aware of licensed shops. Insurance company should not be paying an unlicensed shop.

LA: I think taken out of context it looks like a direction to insurers. If you want to keep sentence amend it to say consumer should be aware, so it is applicable to DBR.

JPK: Even if it could be construed as a directive why is that an issue? We all know insurer can't pay for repairs at unlicensed shop.

DR: We also have some other small changes.

JPK: Yes, we changed language on page 3, Section (f): added spray booth language "defer to state fire marshal...same changes are reflected in all categories. Page 7, Section 5: form given in response to request from law enforcement. Page 4, Section 7: clarify evidence of EPA. Page 5, Section f – had some discussion on basement issue. All we did was cross out language "on basement, second floor. On page 4, application requirements added Tech Certification, and number 8 is Tech transcripts – maintain for at least two years as we

have to maintain all the other records added section 9 – language comes from regulation. I put in parenthesis effect 1/2012.

DR: This year when I filled out my application for renewal we also had to put tax payer status affidavit and Criminal History. If we have to do that shouldn't that be in regulation so that the person applying knows that is something they have to do or did the department just put that there in afterwards.

RB: It was drawn from other parts of state law that were added in after the regulation was drafted.

LA: If a state law changes; all you have to do is add it to the application process. If you want flexibility, add a line that applicant must meet all requirements on application.

**DR: Any other questions on Regulation 4? Motion to adjourn 11:20.
Seconded GG: All In Favor. Meeting adjourned.**